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10/734,160	12/15/2003	Jung-Hoe Kim	1901.1344	2075
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STAAS & HALSEY LLP			EXAMINER	
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1201 NEW YORK AVENUE, N.W.				
WASHINGTON, DC 20005				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/734,160

**Applicant(s)**

KIM ET AL.

**Examiner**

HUYEN X. VO

**Art Unit**

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2010.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 4-6, 9-18, 21, 24-26, 29, 30, 33-34, and 36-37 is/are rejected.  
7) ☒ Claim(s) 2, 3, 7, 8, 19, 20, 22, 23, 27, 28, 31, 32, 35 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 4/23/2010 have been fully considered but they are not persuasive.
2. In response to applicant's argument to traverse prior art rejection based on a limitation regarding "wherein the digital data in the high frequency band is not included in the bandwidth extension information", the original disclosure specifies that "BWE encoding refers to a technique for receiving digital data, slicing off a portion of the digital data in a high frequency band, and generating side information necessary for restoring the sliced portion of the digital data" (*Paragraph 34*). This clearly indicates that the digital data of the high frequency band is used to generate the bandwidth extension information. Sluijter et al. teach the use of high frequency portion of the digital data to generate LPC coefficients (*col. 2, lines 55-63*). The LPC coefficients are qualified as extension information. Therefore, examiner maintains previous grounds of rejections.
3. Also, there is no explicit support for the digital data in the high frequency band not included in the bandwidth extension information. Since the last limitation of independent claim 1 is a negative limitation, explicit support must be disclosed in the specification. As indicated in the previous office action, at best, the claimed extension information is the data derived from the digital data of the high frequency band.

4. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, improve bit rates while preserving signal quality.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 6, 11, 16, 21, 26, 30, and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new limitation regarding "wherein the digital data in the high frequency band is not included in the bandwidth extension information" is considered new subject matter that was not described in the original disclosure. In this office action, the extension information is

treated as either the high frequency band data of the original signal itself or representations of the high frequency band data of the original signal.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4-6, 9-18, 21, 24-26, 29-30, 33-34, and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sluijter et al. (USPN 6772114) in view of Rose et al. (USPN 6947886).

9. Regarding claims 1 and 6, Sluijter et al. disclose a method (*the method is employed in the apparatus of figure 1*) and apparatus (*figure 1*) of encoding digital data, the method comprising:

bandwidth-extension-encoding the digital data (*input signal in figure 1*), outputting bandwidth-limited data (*splitter 7 in figure 1 divides the digital data into a low-band and high-band data*), and generating bandwidth extension information (*output of splitter 7; high-band data*), wherein said bandwidth-extension-encoding includes receiving digital data (*figures 1-2*), slicing off a portion of the digital data in a high frequency band with the remaining portion of the digital being bandwidth-limited data (*figures 1-2; signal is divided into low-frequency band and high-frequency band*), wherein the bandwidth

extension information is information necessary for restoring the sliced portion of the digital data (*figures 1-2; information of the high-frequency band is transmitted to the receiver for later used to reconstruct high-frequency band*).

encoding the bandwidth-limited data (*LFENC 9 in figure 1 encodes low-band data*); and

multiplexing the encoded bandwidth-limited data and the bandwidth extension information (*low-band data and high-band data are combined in at 3 in figure 1*), wherein the digital data in the high frequency band is not included in the bandwidth extension information (*see figure 1; this limitation contains new subject matter; in this limitation, the extension information is treated as information obtained based on data of the high frequency band*).

Sluijter et al. fail to specifically disclose encoding the bandwidth-limited data into a hierarchical structure having a base layer and at least one enhancement layer so as to control a bit rate. However, Rose et al. teach encoding the bandwidth-limited data into a hierarchical structure having a base layer and at least one enhancement layer so as to control a bit rate (*col. 5, lines 60 to col. 6, line 48 and/or referring to figures 3-4; showing base-layer and enhancement layer*).

Since Sluijter et al. and Rose et al. analogous art because they are from the same field of endeavor, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Sluijter et al. by replacing conventional coder (9 in figure 1) with the coder (in figure 4) of Rose et al. in order to improve bit rates while preserving signal quality.

10. Regarding claims 21 and 26, Sluijter et al. disclose an apparatus (*figure 4*) for encoding audio data, the apparatus comprising:

bandwidth extension encoder that bandwidth-extension-encodes the audio data (*input signal in figure 1*), outputs bandwidth-limited audio data (*splitter 7 in figure 1 divides the digital data into a low-band and high-band data*), and generates bandwidth extension information (*splitter 7 in figure 1 outputs high-band data*), wherein said bandwidth-extension-encoding includes receiving digital data (*figures 1-2*), slicing off a portion of the digital data in a high frequency band with the remaining portion of the digital being bandwidth-limited data (*figures 1-2; signal is divided into low-frequency band and high-frequency band*), wherein the bandwidth extension information is information necessary for restoring the sliced portion of the digital data (*figures 1-2; information of the high-frequency band is transmitted to the receiver for later used to reconstruct high-frequency band*).

encoder for encoding the bandwidth-limited audio data (*LFENC 9 in figure 1 encodes low-band data*); and

multiplexer that multiplexes the encoded bandwidth-limited audio data and the bandwidth extension information (*ow-band data and high-band data are combined in at 3 in figure 1*), wherein the digital data in the high frequency band is not included in the bandwidth extension information (*see figure 1; this limitation contains new subject matter; in this limitation, the extension information is treated as information obtained based on data of the high frequency band*).

Sluijter et al. fail to specifically disclose encoding the bandwidth-limited audio data into a hierarchical structure having a base layer and at least one enhancement layer so as to control a bit rate. However, Rose et al. teach encoding the bandwidth-limited audio data into a hierarchical structure having a base layer and at least one enhancement layer so as to control a bit rate (*col. 5, lines 60 to col. 6, line 48 and/or referring to figures 3-4; showing base-layer and enhancement layer*).

Since Sluijter et al. and Rose et al. analogous art because they are from the same field of endeavor, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Sluijter et al. by replacing conventional coder (9 in figure 1) with the coder (in figure 4) of Rose et al. in order to improve bit rates while preserving signal quality.

11. Regarding claims 4, 9, 24, and 29, the combination of Sluijter et al. and Rose et al. (*by replacing the standard coder (9 of figure 1) of Sluijter et al. with the coder (the operation of figure 4) of Rose et al., as discussed in claims 1 and 6*) further disclose wherein the encoded bandwidth-limited data and the bandwidth extension information is multiplexed (*end result 3 in figure 1 of Sluijter et al.*) in such an order that a portion of the encoded bandwidth-limited data corresponding to the base layer is located (*the operation of figure 4 of Rose et al., which is replacing the conventional encoder 9 in figure 1 of Sluijter et al.*), the bandwidth extension information is located (*high-band data into 11 in figure 1 of Sluijter et al.*), and portions of the bandwidth-limited data corresponding to the remaining enhancement layers are located (*the operation of figure*



*4 of Rose et al., which is replacing the conventional encoder 9 in figure 4 of Sluijter et al.).*

Since Sluijter et al. and Rose et al. analogous art because they are from the same field of endeavor, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Sluijter et al. by replacing conventional coder (9 in figure 1) with the coder (in figure 4) of Rose et al. in order to improve bit rates while preserving signal quality.

12. Regarding claims 5, 10, and 25, the combination of Sluijter et al. and Rose et al. *(by replacing the standard encoder (9 of figure 1) of Sluijter et al. with the encoder (the operation of figure 4) of Rose et al., as discussed in claims 1 and 6)* further disclose wherein the encoded bandwidth-limited data and the bandwidth extension information is multiplexed *(end result 3 in figure 1 of Sluijter et al.)* in such an order that the bandwidth extension information is located *(high-band data output by the splitter 7 in figure 1 of Sluijter et al.)*, a portion of the encoded bandwidth-limited data corresponding to the base layer is located *(the operation of figure 4 of Rose et al., which is replacing the conventional encoder 9 in figure 1 of Sluijter et al.)*, and portions of the bandwidth-limited data corresponding to the remaining enhancement layers are located *(the operation of figure 4 of Rose et al., which is replacing the conventional encoder 9 in figure 1 of Sluijter et al.)*.

Since Sluijter et al. and Rose et al. analogous art because they are from the same field of endeavor, it would have been obvious to one of ordinary skill in the art at

the time of invention to modify Sluijter et al. by replacing conventional coder (9 in figure 1) with the coder (in figure 4) of Rose et al. in order to improve bit rates while preserving signal quality.

13. Regarding claims 11-18, 30, 33-34, and 36-37, Sluijter et al. disclose a decoding method/apparatus (*receiver 5 in figure 1*). Sluijter et al. fail to teach few features of the claimed decoder. However, the decoder of claims 11-18, 30, 33-34, and 36-37 is only a reverse or mirror-image operation of claims 1-10 and 21-29. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to readily realize that the decoding operation is only a mirror image or a reversed operation of the encoder. One of ordinary skill in the art would have been able to design a decoder complementary to the claimed encoder in order to decode the encoded signal.

#### ***Allowable Subject Matter***

14. Claims 2-3, 7-8, 19-20, 22-23, 27-28, 31-32, and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN X. VO whose telephone number is (571)272-7631. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Huyen X Vo/  
Primary Examiner, Art Unit 2626

7/7/2010

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